IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 459 OF 2007

Gangabai Shankarrao Methe.... Petitioner

versus

Suryakant Bhairavnath Korde..... Respondent.
through legal heirs.

Shri A.B. Borkar forthe petitioner

CORAM; A.P. DESHPANDE, J.
DATED; 4TH JULY, 2007

P.C.;

1. The present writ petition is filed by the original defendant, who is in possession of the tenanted premises regulated by Bombay Rent Act. The trial court decreed the suit and during pendency of an appeal filed by the present petitioner, the Bombay Rent Act came to be repealed by the Maharashtra Rent Control Act 1999. In view of the repeal of the Bombay Rent Act, the petitioner moved an application seeking to amend the writ petition and raised a contention that under the new act acquisition of alternative accommodation is not a ground for eviction. In substance the submission before the first Appellate Court, in support of the amendment application was that the proceeding need to be regulated by the provision of Maharashtra Rent Control Act. The

rejection of the said application has given raise to filing of this writ petition.

2. Section 58 of the Maharashtra Rent Control Act deals with repeal and saving. Sub section 2 of section 58 reads thus:

> **(2) Notwithstanding such repeal- (a) All applications, suits, and other proceedings under the said Acts pending, on the date of commencement of this Act before any court, controller, competent authority, or other office or authority shall be continued and disposed of in accordance with the provisions of the Acts, so repealed, as if the said acts had continued in force and this Act had not been passed."**
>
> **Sub section 2(b) further clarifies that:**
>
> **the provisions for appeal under the Acts so repealed shall continue in force in respect of applications, suits and proceedings disposed of thereunder.**

3. It is thus clear that proceedings initiated under

Bombay Rent Act need to be continued under the repealed act as if the said act has not been repealed. In this view of the matter the first Appellate court was fully justified in rejecting the application for amendment by holding that the same is sought in order to protract the matter. Hence no interference is called for. Writ petition is thus summarily dismissed.

....